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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/071,225 | 02/11/2002 | Thomas J. Coleman | 278-101P-WLK | 9263 |

7590 07/15/2005

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EXAMINER

WEINSTEIN, STEVEN L

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1761

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/071,225

Applicant(s)

COLEMAN ET AL.

Examiner

Steven L. Weinstein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33-37,39,42-48,50-60,62 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coleman('884) in view of Donsky('202), Cassai(D'269), and Clements('328), further in view of Baker(WO '03) further in view of Philadelphia City Paper, www.topps.com, and www.toppscanada.com, further in view of Gallart et al('350), Schlotter et al('748),Silverstein('352), and Tupper(2,766,796) for the reasons fully and clearly detailed in the Office actions mailed 4/23/04 and 10/21/04.

Cassai and Clements are relied on as further evidence of the notoriously well known concept of providing a dividing wall to impart multiple compartments to a container for containing the same or different contents. Tupper is relied on as further evidence of the conventionality of the use of a two cover system and the fact that the outer cover is removably connected to the inner cover by an inner sleeve which connects to a flange on the inner cover. As noted previously, such structure, of course, is also shown in the Topps device, Gallart et al, etc. Note, too, as noted previously, the particular shape of the container is seen to have been an obvious result effective variable. Tapered containers are notoriously old in the art of packaging.

Claims 38,40,41,49 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 33 above, and further in view of Coleman et al('535), Parr(D'455), Parr(D'456), Kennedy('515), Overland('006) and

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Ferguson('685) for the reasons fully and clearly detailed in the Office actions mailed 4/23/04 and 10/21/04.

All of applicants remarks filed 4/22/05 have been fully and carefully considered but have not been found to be convincing. It is urged that Donsky is non-analogous art. This urging was anticipated in the Office action mailed 4/23/04 and addressed therein on page 4 of the action. As for the urging that Donsky does not connect the applicators as claimed, Donsky does not have to show this arrangement for the rejection to be proper. This is because Coleman('884) already teaches the conventionality of the structural relationship. The remainder of the urgings argue each reference separately emphasizing that these secondary references have single compartments. Note, however, that the references are applied in combination under 35USC103 for various reasons but are not relied on to teach the conventionality of partitioned walled multicompartmented containers which are taught by Donsky, Cassai and Clements.

Steve Weinstein

STEVE WEINSTEIN
PRIMARY EXAMINER

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